



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/148031

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 14, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 22, 2013, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$38 to \$16 effective March 1, 2013, due to an increase in unearned income from the Court-ordered Marital Settlement Agreement.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Shaun Johnson, ESS

Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who receives FoodShare (FS) benefits for a household of one.

2. The petitioner receives the following monthly income: a) Social Security - \$827; b) pension/retirement - \$119.43; c) \$6.00 from [REDACTED] [REDACTED].
3. During her February, 2013 review, petitioner provided a copy of her Marital Settlement Agreement with her ex-husband, [REDACTED] [REDACTED]. In that settlement agreement, petitioner's ex-husband was order to make monthly payments of \$100 to the petitioner.
4. The county agency counted those \$100 payments as increased unearned income to the petitioner.
5. The county agency sent a notice to the petitioner stating that effective March 1, 2013, petitioner's FoodShare benefits would be reduced from \$38 to \$16, due to an increase in unearned income from the Court-ordered Marital Settlement Agreement.

### DISCUSSION

In determining the amount of FS to be issued each month, the county must **budget all income of the FS household, including all earned and unearned income.** 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction – for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d) (5). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the April 22, 2013 hearing, ESS Shaun Johnson, provided petitioner a detailed explanation regarding the calculation of the reduction in petitioner's FS benefits from \$38 to \$16 as of March 1, 2013 due to an increase in her monthly income from the Marital Settlement Agreement. During that hearing, petitioner admitted that she had received the \$100 payments from her ex-husband during the months of December, 2012, January, 2013 and February, 2013. The petitioner argued that she took those \$100 payments from her ex-husband to repay past debts to her daughter. However, petitioner was unable to provide any reliable, relevant documentation or evidence to establish that petitioner took any of those \$100 payments, and paid it to her daughter. In fact, when questioned about those alleged payments to her daughter, petitioner asserted without credibility that she paid her daughter "in cash." Furthermore, petitioner was unable to refute the county agency's case that it had correctly calculated the petitioner's income for a FS household of one based upon budgeting petitioner's \$100 monthly payments and the other income of her household. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$38 to \$16 effective March 1, 2013, due to an increase in monthly unearned income from the Court-ordered Marital Settlement Agreement.

### CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$38 to \$16 effective March 1, 2013, due to an increase in monthly unearned income from the Court-ordered Marital Settlement Agreement.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby Dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 8th day of May, 2013

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 8, 2013.

Dane County Department of Human Services  
Division of Health Care Access and Accountability